

Remarks

The Office Action mailed 17 June 2005 has been received and reviewed. Claims 1, 4, 6, 10-12, 14, 20-23, 28, 30, 33, 38-39, 42-43, 48-50, 52-54, 59, 61-62, and 64 having been amended, and claim 3 having been cancelled, the pending claims are claims 1-2 and 4-68. Reconsideration and withdrawal of the rejections are respectfully requested. Support for the amendments to the claims can be found throughout Applicant's specification, including the claims.

Affirmation of Provisional Election

The Examiner issued a Restriction Requirement under 35 U.S.C. §121 in the above-identified application, grouping the claims as follows: Group I, claims 6-27 and 39-58, drawn to a method and indicator for the detection of hydrogen peroxide, and Group II, claims 28-37 and 59-68, drawn to a method and indicator for the detection of a peracid. The Examiner indicated that claims 1-5 and 38 would be examined with either Group I or II. A provisional election to prosecute claims 6-17 and 39-58, Group I, was made in response to a telephone conversation between Applicant's Representative, Ann M. Muetting, and Examiner Alexander on 9 June 2005. The provisional election to prosecute Group I and claims 1-5 and 38 is herein affirmed with traverse.

Applicant respectfully requests reconsideration and withdrawal or modification of the restriction requirement. It is respectfully submitted that the inventions as claimed can be readily evaluated in one search without placing undue burden on the Examiner. That is, the claims are so interrelated that a search of one group of claims will reveal art to the others.

Were restriction to be effected between the claims of Groups I and II, a separate examination of the claims in these two groups would require substantial duplication of work on the part of the U.S. Patent and Trademark Office. Even though some additional consideration would be necessary, the scope of analysis of novelty of all the claims of Groups I and II would have to be as rigorous as when only the claims of Group I, for example, were being considered by

themselves. Clearly, this duplication of effort would not be warranted where these claims of different categories are so interrelated.

Obviousness-Type Double Patenting Rejection

Claims 1-27 and 38-58 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,790,411.

Claims 1-27 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of co-pending Application No. 10/890,612. Each independent claim having been amended, this rejection is rendered moot. Insofar as it applies to the presently pending claims, this rejection is respectfully traversed.

There is no teaching or suggestion in the claims (or the specification) of either document of an indicator composition that includes: at least one salt of a transition metal; at least one colorant that changes color when exposed to a sterilant; and at least one binder resin; wherein the at least one salt of a transition metal is not the at least one colorant. Withdrawal of this rejection is respectfully requested.

The 35 U.S.C. §112, Second Paragraph, Rejection

The Examiner rejected claims 4, 10-11, 14, 20-23, 42, 43, and 48-58 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner alleged that these claims are all directed to "Keystone soap fluoro green" which is not a widely recognized indicator in the art. The Examiner requested that applicant supply corroborating information in this indicator. In the interest of expediting prosecution, Applicants have deleted reference to "Keystone soap fluoro green" thereby rendering this rejection moot.

The 35 U.S.C. §102 Rejection

The Examiner rejected claims 1-27 under 35 U.S.C. §102(b) as being anticipated by Patel et al. (U.S. Patent No. 5,420,000). Each independent claim having been amended, this rejection is rendered moot. Insofar as it applies to the presently pending claims, this rejection is respectfully traversed.

There is no teaching or suggestion in Patel et al. of an indicator composition wherein the at least one salt of a transition metal and the at least one colorant are selected to indicate the presence of hydrogen peroxide and/or peracetic acid.

The Examiner rejected claims 1-27 and 38-58 under 35 U.S.C. §102(e) as being anticipated by Kirkof et al. (U.S. Patent No. 6,488,890), WO 98/58683, or Amhof et al. (U.S. Patent No. 6,238,623). Each independent claim having been amended, these rejections are rendered moot. Insofar as they apply to the presently pending claims, these rejections are respectfully traversed.

There is no teaching or suggestion in any of these documents of an indicator composition wherein the salt of a transition metal is not the colorant.



Amendment and Response

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For: HYDROGEN PEROXIDE AND PERACETIC ACID INDICATORS AND METHODS

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Summary

It is respectfully submitted that the pending claims 1-68 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicant's Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for
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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that this Transmittal Letter and the paper(s), as described hereinabove, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: **Mail Stop**

Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 13th day of September, 2005.

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